



(Original Signature of Member)

114TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To reduce Federal overcriminalization, protect Americans from unjust punishment, and uphold the role of Congress by clarifying mens rea requirements for all Federal criminal offenses, creating an inventory of Federal offenses that carry a criminal penalty, and providing that no rule of the executive branch which may be enforced by criminal penalties can take effect unless a joint resolution of approval is enacted into law.

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IN THE HOUSE OF REPRESENTATIVES

Mr. ROONEY of Florida (for himself and Mr. RICHMOND) introduced the following bill; which was referred to the Committee on

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**A BILL**

To reduce Federal overcriminalization, protect Americans from unjust punishment, and uphold the role of Congress by clarifying mens rea requirements for all Federal criminal offenses, creating an inventory of Federal offenses that carry a criminal penalty, and providing that no rule of the executive branch which may be enforced by criminal penalties can take effect unless a joint resolution of approval is enacted into law.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Stopping Over-Crim-  
3 inalization Act of 2015”.

4 **SEC. 2. PURPOSE.**

5       The purpose of this Act is to reduce the size, scope  
6 and complexity of the Federal criminal code. In order to  
7 ensure that honest mistakes by individuals who are not  
8 morally blameworthy do not result in criminal charges, the  
9 Act establishes a default criminal state of mind require-  
10 ment for all Federal criminal offenses, and allows a mis-  
11 take of law defense for situations in which the defendant  
12 did not know, and a reasonable person would not have  
13 known, that the action was a crime. Currently, Federal  
14 crimes, including executive rules that carry criminal pen-  
15 alties are scattered throughout the Federal code and reg-  
16 ister. To enable all Americans to access and view Federal  
17 crimes, the Act requires the creation of a Federal inven-  
18 tory that lists all Federal criminal offenses, including  
19 agency rules that define criminal offenses. To uphold the  
20 role of Congress in defining what constitutes a Federal  
21 crime, the Act holds that no rule of the executive branch  
22 defining or establishing a criminal offense shall have force  
23 or effect unless approved by both branches of Congress.

1   **SEC. 3. CLARIFICATION OF DEFAULT MENS REA FOR FED-**  
2                                   **ERAL OFFENSES.**

3       (a) IN GENERAL.—Chapter 1 of title 18, United  
4 States Code, is amended by adding at the end the fol-  
5 lowing:

6   **“§ 28. Default mens rea requirement**

7       “(a) KNOWING STATE OF MIND GENERALLY RE-  
8 QUIRED.—For the purposes of a Federal offense, unless  
9 otherwise specifically provided in the provision of law de-  
10 fining the offense, the state of mind required for a convic-  
11 tion is knowing as to each element of the offense.

12       “(b) SPECIAL RULE FOR REGULATORY AND SIMILAR  
13 OFFENSES.—In addition, in the case of an offense, such  
14 as a regulatory offense, where a defendant might reason-  
15 ably be unaware the conduct could be criminally punished,  
16 the Government must prove the defendant had reason to  
17 know the defendant’s conduct was unlawful.”.

18       (b) CLERICAL AMENDMENT.—The table of sections  
19 at the beginning of chapter 1 of title 18, United States  
20 Code, is amended by adding at the end the following new  
21 item:

“28. Establishing a default mens rea for Federal offenses.”.

1 SEC. 4. REQUIRING AN INVENTORY OF ALL FEDERAL  
2 CRIMINAL OFFENSES.

3 (a) IN GENERAL.—Chapter 31 of title 28, United  
4 States Code, is amended by adding at the end the fol-  
5 lowing:

6 “§ 530E. Inventory of Federal criminal offenses

7 “(a) DEVELOPMENT AND AVAILABILITY.—

8 “(1) INITIALLY.—Not later than one year after  
9 the enactment of this section, the Attorney General  
10 shall develop and make available to the public, online  
11 and through other appropriate means, an inventory  
12 of all Federal criminal offenses, including violations  
13 of agency rules that carry criminal penalties.

14 “(2) UPDATING.—The Attorney General shall  
15 update the inventory following the subsequent enact-  
16 ment or amendment (or the creation by agency rule-  
17 making) of any Federal criminal offenses in order to  
18 keep the inventory as up to date as practicable.

19 “(b) PROHIBITION OF PROSECUTION OF NON-INVEN-  
20 TORIED OFFENSES.—

21 “(1) GENERALLY.—Except as provided in para-  
22 graph (2), it is a defense against a prosecution for  
23 any Federal offense that the offense is not listed in  
24 the inventory as required by this section.

25 “(2) EXCEPTIONS.—Paragraph (1) does not  
26 apply if—

1           “(A) the Government demonstrates beyond  
2           a reasonable doubt that a reasonable person  
3           would have known the conduct that person en-  
4           gaged in was criminal in nature; or

5           “(B) the conduct of the defendant resulted  
6           in an imminent and foreseeable risk of death or  
7           bodily injury to another.”.

8           (b) CLERICAL AMENDMENT.—The table of sections  
9           at the beginning of chapter 31 of title 28, United States  
10          Code, is amended by adding at the end the following new  
11          item:

          “530E. Inventory of Federal criminal offenses.”.

12       **SEC. 5. PRESERVING THE ROLE OF CONGRESS IN DEFIN-**  
13               **ING FEDERAL CRIMES.**

14           (a) IN GENERAL.—Chapter 8 of title 5, United  
15          States Code, is amended—

16               (1) by inserting before section 801 the fol-  
17          lowing:

18          “SUBCHAPTER I—CONGRESSIONAL REVIEW  
19               GENERALLY”; AND

20               (2) by inserting after section 808 the following:

21          “SUBCHAPTER II—RULES WITH CRIMINAL  
22               PENALTIES

23       **“§ 811. New rules with criminal penalties**

24           “(a) LIMITATION ON TAKING EFFECT.—A new rule  
25          with criminal penalties shall not take effect except upon

1 the enactment of a joint resolution under this subchapter,  
2 the matter after the resolving clause of which is as follows:  
3 “That Congress approves the rules submitted by the  
4 \_\_\_\_\_ relating to \_\_\_\_\_.’ (The blank  
5 spaces being appropriately filled in).

6 “(b) PROPOSED RULES TO BE SUBMITTED TO CON-  
7 GRESS.—Upon proposing a rule to which subsection (a)  
8 applies, the agency proposing the rule shall submit to Con-  
9 gress—

10 “(1) a copy of the rule, a concise general state-  
11 ment relating to the rule, and the proposed effective  
12 date of the rule;

13 “(2) a justification for providing criminal pen-  
14 alties, including—

15 “(A) an estimate of the number of ex-  
16 pected prosecutions annually over a 10-year pe-  
17 riod;

18 “(B) the anticipated cost of prosecuting  
19 and punishing, including by incarceration, of-  
20 fenders;

21 “(C) a cost-benefit analysis of punishing  
22 offenses as crimes, rather than lesser violations,  
23 including the effect on rule compliance, impact  
24 on total federal spending, and the impact of in-

1           carceration and other punishments under the  
2           rule on communities.

3           “(3) a criminal rule report for such rule. Such  
4           a rule may not take effect prior to the final disposi-  
5           tion date for such criminal rule report.

6           “(c) REFERRAL OF SUBMISSION.—Upon receipt of a  
7           submission under this section, each House of Congress  
8           shall provide copies of the submission to the chairman and  
9           ranking member of each standing committee with the ju-  
10          risdiction to report a bill to amend the provision of law  
11          under which the rule is issued.

12          “(d) DEADLINE FOR REPORTING BY COMMITTEES.—  
13          If, not later than 15 legislative days after the referral in  
14          one of the Houses of Congress, no committee to which a  
15          submission is referred under subsection (c) reports out,  
16          either favorably or unfavorably, a joint resolution approv-  
17          ing the rule, the committee to which the submission is re-  
18          ferred is automatically discharged of the resolution of ap-  
19          proval.

20          “(e) HOUSE OF REPRESENTATIVES.—(1) In the  
21          House of Representatives, after the 15-day period de-  
22          scribed in subsection (d), it is at any time in order for  
23          a motion to proceed to the consideration of a joint resolu-  
24          tion described in subsection (a).

1       “(2) In the House of Representatives, all points of  
2 order against a joint resolution described in subsection (a)  
3 shall be considered waived. The joint resolution shall be  
4 debatable for one hour equally divided and controlled by  
5 the chairman and ranking minority member of the com-  
6 mittee of referral. The previous question shall be consid-  
7 ered as ordered on the resolution to final passage without  
8 intervening motion, except one motion to recommit with-  
9 out instructions.

10       “(f) AUTOMATIC DISCHARGE.—In the Senate, if the  
11 committee to which is referred a joint resolution described  
12 in subsection (a) has not reported such joint resolution  
13 (or an identical joint resolution) after the 15-day period  
14 described in subsection (d), such committee shall be dis-  
15 charged from further consideration of such joint resolution  
16 and such joint resolution shall be placed on the calendar.

17       “(g) MOTION TO PROCEED AND DEBATE.—(1) In the  
18 Senate, when the committee to which a joint resolution  
19 is referred has reported, or when a committee is dis-  
20 charged (under subsection (f)) from further consideration  
21 of a joint resolution described in subsection (a), it is at  
22 any time thereafter in order (even though a previous mo-  
23 tion to the same effect has been disagreed to) for a motion  
24 to proceed to the consideration of the joint resolution, and  
25 all points of order against the joint resolution (and against



1 consideration of the joint resolution) are waived. The mo-  
2 tion is not subject to amendment, or to a motion to post-  
3 pone, or to a motion to proceed to the consideration of  
4 other business. A motion to reconsider the vote by which  
5 the motion is agreed to or disagreed to shall not be in  
6 order. If a motion to proceed to the consideration of the  
7 joint resolution is agreed to, the joint resolution shall re-  
8 main the unfinished business of the Senate until disposed  
9 of.

10       “(2) In the Senate, debate on the joint resolution,  
11 and on all debatable motions and appeals in connection  
12 therewith, shall be limited to not more than 5 hours, which  
13 shall be divided equally between those favoring and those  
14 opposing the joint resolution. A motion further to limit  
15 debate is in order and not debatable. An amendment to,  
16 or a motion to postpone, or a motion to proceed to the  
17 consideration of other business, or a motion to recommit  
18 the joint resolution is not in order.

19       “(3) In the Senate, immediately following the conclu-  
20 sion of the debate on a joint resolution described in sub-  
21 section (a), and a single quorum call at the conclusion of  
22 the debate if requested in accordance with the rules of the  
23 Senate, the vote on final passage of the joint resolution  
24 shall occur.

1       “(4) Appeals from the decisions of the Chair relating  
2 to the application of the rules of the Senate to the proce-  
3 dure relating to a joint resolution described in subsection  
4 (a) shall be decided without debate.

5       “(h) CONSIDERATION BY THE OTHER HOUSE.—If,  
6 before the passage by one House of a joint resolution of  
7 that House described in subsection (a), that House re-  
8 ceives from the other House a joint resolution described  
9 in subsection (a), then the following procedures shall  
10 apply:

11           “(1) The joint resolution of the other House  
12 shall not be referred to a committee.

13           “(2) With respect to a joint resolution described  
14 in subsection (a) of the House receiving the joint  
15 resolution—

16           “(A) the procedure in that House shall be  
17 the same as if no joint resolution had been re-  
18 ceived from the other House; but

19           “(B) the vote on final passage shall be on  
20 the joint resolution of the other House.

21       “(i) EXERCISE OF RULEMAKING POWER.—This sec-  
22 tion is enacted by Congress—

23           “(1) as an exercise of the rulemaking power of  
24 the Senate and House of Representatives, respec-  
25 tively, and as such it is deemed a part of the rules

1 of each House, respectively, but applicable only with  
2 respect to the procedure to be followed in that  
3 House in the case of a joint resolution described in  
4 subsection (a), and it supersedes other rules only to  
5 the extent that it is inconsistent with such rules; and  
6 “(2) with full recognition of the constitutional  
7 right of either House to change the rules (so far as  
8 relating to the procedure of that House) at any time,  
9 in the same manner, and to the same extent as in  
10 the case of any other rule of that House.

11 **“§ 812. Definition**

12 “In this subchapter, the term ‘new rule with criminal  
13 penalties’ means a rule or provision of a rule, or an  
14 amendment to such a rule or provision, that—

15 “(1) if violated, may be punished by criminal  
16 penalties; and

17 “(2) is proposed after the date of enactment of  
18 this section.”.

19 (b) CLERICAL AMENDMENT.—

20 (1) REFERENCES TO CHAPTER CONFORMED.—  
21 Sections 801 through 808 of such title are amended  
22 by striking “chapter” each place such term appears,  
23 and inserting “subchapter”.

24 (2) TABLE OF SECTIONS.—The table of sections  
25 for chapter 8 of such title is amended as follows:

1 (A) before the item pertaining to section  
2 801, insert the following:

“SUBCHAPTER I-CONGRESSIONAL REVIEW GENERALLY”; AND

3 (B) after the item pertaining to section  
4 808, insert the following:

“SUBCHAPTER II-RULES WITH CRIMINAL PENALTIES

“811. Agency reviews of rules with criminal penalties.

“812. Definitions”.

5 **SEC. 6. NONAPPLICATION OF ACT TO UNIFORM CODE OF**  
6 **MILITARY JUSTICE.**

7 Nothing in this Act or any amendment made by this  
8 Act applies to any existing or future statute or regulation  
9 enacted in, or prescribed under, the Uniform Code of Mili-  
10 tary Justice.